

APPEAL NO. 042271
FILED OCTOBER 28, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 9, 2004. The hearing officer decided that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the eighth quarter, beginning May 16 and ending August 11, 2004. The claimant timely appealed the determinations related to direct result and SIBs entitlement on sufficiency grounds. The carrier's response was not timely filed and will not be considered.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated that the claimant sustained a compensable low back injury and that the qualifying period for the eighth quarter began January 30 and ended April 29, 2004. The hearing officer found that the claimant's unemployment during the qualifying period for the eighth quarter was not a direct result of the impairment from his compensable injury.

The Appeals Panel has held that the direct result criteria may be met by a showing of a serious injury with long lasting effects which preclude a return to the preinjury employment. Texas Workers' Compensation Commission Appeal No. 002309-s, decided November 16, 2000. In the instant case, the hearing officer noted that the claimant had been released to return to work without restrictions prior to the qualifying period and that although the claimant had been taken off work by his treating doctor on the last day of the qualifying period, there was no documentation that the claimant's condition had changed.

The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). This includes medical evidence. The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**MR. RUSSELL R. OLIVER, PRESIDENT
221 WEST 6TH STREET, SUITE 300
AUSTIN, TEXAS 78701.**

Margaret L. Turner
Appeals Judge

CONCUR:

Veronica L. Ruberto
Appeals Judge

Edward Vilano
Appeals Judge